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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
DEPARTMENT OF PORTLAND

RONALD HAYES; JERAMIAH ARNOLD-
FOWLKES; and PRINCE-AMAHYZA
HUDSON,

Plaintiffs,

v.

HOME DEPOT U.S.A., INC., a Delaware
corporation; JOHN DOE; and JANE DOE,

Defendants.

CAUSE NO. 3:22-cv-01609

DEFENDANTS' NOTICE OF REMOVAL

DEMAND FOR JURY OF TWELVE

**To: Clerk of The Court, United States District Court For The District Of Oregon,
Portland Division.**

PLEASE TAKE NOTE that Defendants Home Depot U.S.A., Inc. (hereinafter "Home Depot") hereby remove to this Court the State action described below in accordance with 28 U.S.C. §§ 1332, 1441 and 1446. As grounds for removal, Home Depot respectfully states:

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DEFENDANT'S NOTICE OF REMOVAL
(CAUSE NO. 3:22-cv-01609) - Page 1

HWS LAW GROUP
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SEATTLE, WA 98101
P: (206) 262-1200 F: (206) 260-4350

I. STATE COURT ACTION

1. The State Court action to be removed is *Ronald Hayes, et al. v. Home Depot U.S.A., Inc.* Multnomah County Circuit Court Case No. 22CV31377 (Plaintiff's Complaint – **Exhibit A**).

II. TIME FOR REMOVAL

2. Plaintiffs filed their action in Multnomah County Circuit Court on September 14, 2022. The Complaint was served on Home Depot on September 26, 2022. Pursuant to 28 U.S.C. § 1446(b), a party may remove an action to Federal District Court within 30 days of service of process. Home Depot therefore has until October 26, 2022 or 30 days after service of Plaintiff's Complaint to move for removal to this Federal District Court. 28 U.S.C. § 1446(b).

III. BASIS FOR REMOVAL

3. A party may seek removal of a State Court action where the amount in controversy exceeds \$75,000 and the action is between citizens of different states. 28 U.S.C. § 1332(a)(1).

A. Amount in Controversy

4. Plaintiff's Complaint seeks \$750,000.00 in damages. **Exhibit A**.

B. Diversity of Citizenship

5. This is a false arrest, discrimination action arising from damages allegedly sustained by Plaintiffs while shopping at a Home Depot store in Happy Valley, Oregon.

6. Plaintiffs are residents of the State of Oregon, residing at the following counties: Multnomah and Clackamas Counties.

7. The Complaint named Home Depot U.S.A., Inc. as the defendant. Home Depot U.S.A., Inc. was, and currently is, incorporated in the State of Delaware with its principal place of business in Georgia (*see Declaration of Kelsey L. Shewbert* (hereinafter "*Decl. KLS*")). For the purposes of removal based on diversity jurisdiction, Home Depot is a citizen of Delaware. 28 U.S.C. § 1332 (C)(1); *Hertz Corp. v. Friend*, 559 US 77 (2010).

8. The underlying State Court Action is one in which this Court has original jurisdiction under the provisions of Title 28, United State Code, Section 1332, and is one which may be removed to this Court by Home Depot, pursuant to the provisions of Title 28, United States Code, Section 1441, in that it is a civil action wherein the amount in controversy exceeds the sum of Seventy-Five Thousand Dollars (\$75,000), exclusive of interest and costs, and is between entities of different states.

IV. NOTICE TO STATE COURT AND ADVERSE PARTIES

9. Home Depot will promptly file a copy of this Notice with the clerk of the Multnomah County Circuit Court and will give written notice to all adverse parties. 28 U.S.C. §1446(d).

10. In accordance with 28 U.S.C. § 1446, attached are the following documents which have been served on Home Depot: **Exhibit A** – Complaint; and **Exhibit B** – Summons **Exhibit C** – Plaintiff’s First Request for Production.

V. JURY DEMAND

11. As permitted by Fed. R. Civ. P. 38, Fed. R. Civ. P. 81(c)(3), Home Depot hereby respectfully demands a trial by jury of twelve of all issues triable of right by jury.

VI. INTRADISTRICT ASSIGNMENT

12. This matter should be assigned to the Portland Division, as the alleged events in this matter arose in Multnomah County, making the Portland Division the appropriate venue. Local Rule 3.

WHEREFORE, Home Depot requests that this action, *Ronald Hayes, et al. v. Home Depot U.S.A., Inc.*, Multnomah County Circuit Court Case No. 22CV31377, be removed to the United States District Court for the District of Oregon, Portland Division.

DATED this 21st day of October, 2022 in Seattle, Washington.

HWS LAW GROUP LLP

/s/Kelsey L. Shewbert

/s/Kaytlin L. Carlson

Kelsey L. Shewbert, OSB No. 221063

kshewbert@hwslawgroup.com

Kaytlin L. Carlson, OSB No. 212463

kcarlson@hwslawgroup.com

Attorneys for Defendants

CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Oregon, that the following is true and correct:

I am employed by the law firm of HWS Law Group LLP.

At all times hereinafter mentioned, I was and am a citizen of the United States of America, a resident of the State of Washington, over the age of eighteen (18) years, not a party to the above-entitled action, and competent to be a witness herein.

On the date set forth below I served the document(s) to which this is attached, in the manner noted on the following person(s):

PARTY/COUNSEL	DELIVERY INSTRUCTIONS
<u>CO /Plaintiff</u> Gregory Kafoury Mark McDougal Kafoury & McDougal 411 SW 2 nd Ave., Suite 200 Portland, OR 97204	<div style="display: flex; align-items: flex-start;"> <div style="margin-right: 10px;"> <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> </div> <div> Via U.S. Mail Via E-Mail Via Messenger Service Via Court E-Service </div> </div> kafoury@kafourymcdougal.com mcdougal@kafourymcdougal.com

DATED this 21st day of October, 2022 in Seattle, Washington.

/s/Christie Kramer

Christie Kramer, Paralegal/Legal Assistant

EXHIBIT – A

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

RONALD HAYES; JERAMIAH
ARNOLD-FOWLKES; and
PRINCE-AMAHYZA HUDSON,

Plaintiffs,

v.

HOME DEPOT U.S.A., INC., a
Delaware corporation; JOHN DOE;
and JANE DOE,

Defendants.

Case No.

COMPLAINT
(False Arrest; Discrimination)

NOT SUBJECT TO MANDATORY
ARBITRATION

PRAYER: \$750,000
ORS 21.160(1)(c)

JURY TRIAL DEMANDED

Plaintiffs demand a jury trial and allege as follows:

1.

Defendant Home Depot U.S.A., Inc. (hereinafter, "Home Depot") is, and at all times mentioned herein has been, a Delaware corporation engaged in the retail sale of a wide variety of merchandise and goods, including at a store located at 9300 SE 82nd Avenue, Happy Valley, Oregon. Home Depot conducts regular, sustained business activity in Multnomah County.

2.

At all times mentioned herein, John Doe was acting within the course and scope of his employment by Home Depot.

////

1 3.

2 At all times mentioned herein, Jane Doe was acting within the course
3 and scope of her employment by Home Depot.

4 4.

5 On or about June 22, 2022, plaintiffs were customers at the above-
6 mentioned Home Depot. Plaintiff Hayes saw a security guard (John Doe)
7 following him throughout the store. John Doe followed plaintiff Hayes to the
8 pay station and watched all three plaintiffs pay for their items. After paying, as
9 plaintiffs were approaching the exit, John Doe and another employee (Jane
10 Doe) detained plaintiffs and demanded to check their receipts. None of the
11 other customers who were leaving the store were stopped. Plaintiffs were the
12 only Black customers.

13 **FIRST CLAIM FOR RELIEF**

14 **(False Arrest – All Defendants)**

15 5.

16 Plaintiffs reallege and incorporate by reference paragraphs 1-4 above.

17 6.

18 The above-described stop and detention was intentional, plaintiffs were
19 aware of their detention, and the detention was unlawful.

20 7.

21 As a result of the above-described detention, plaintiffs suffered, continue
22 to suffer, and will in the future suffer from embarrassment, frustration, anger,
23 humiliation and a sense of increased vulnerability, all to each of their

1 noneconomic damages not to exceed \$100,000.

2 **SECOND CLAIM FOR RELIEF**

3 **(Discrimination – All Defendants)**

4 8.

5 Plaintiffs reallege and incorporate by reference paragraphs 1-4 above.

6 9.

7 Plaintiffs are all African-American.

8 10.

9 The above-described Home Depot store is, and at all times mentioned
10 herein has been, a place of public accommodation within the meaning of
11 ORS 659A.400. At least part of the motivation for the above-described conduct
12 on the part of the employees described above was the plaintiffs' race.

13 11.

14 The above-described conduct violates ORS 659A.403, which prohibits
15 discrimination in places of public accommodation on account of race.

16 12.

17 As a result of the above-described discrimination, plaintiffs suffered,
18 continue to suffer, and may permanently suffer from feelings of racial
19 stigmatization, embarrassment, humiliation, anger, indignity, and shame, all to
20 each of their noneconomic damages in the amount of \$150,000.

21 13.

22 Plaintiffs are entitled to their reasonable attorney fees pursuant to
23 ORS 659A.885.

1 WHEREFORE, each plaintiff prays for judgment against defendants in
2 the amount of \$250,000 in noneconomic damages, for plaintiffs' attorney fees
3 pursuant to ORS 659A.885, and for their costs and disbursements necessarily
4 incurred herein.

5 Dated this 14th day of September, 2022.

6 KAFOURY & MCDOUGAL

7 /s/ Gregory Kafoury

8 Gregory Kafoury, OSB #741663

9 Kafoury@kafourymcdougal.com

Mark McDougal, OSB #890869

mcdougal@kafourymcdougal.com

Attorneys for Plaintiff

10
11 Plaintiffs hereby provide notice of their intent to amend to include a
12 claim for punitive damages.

EXHIBIT – B

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

SUB-SERVICE COPY

RONALD HAYES; JERAMIAH ARNOLD-
FOWLKES; and PRINCE-AMAHYZA HUDSON,

Plaintiffs,

v.

HOME DEPOT U.S.A., INC., a Delaware
corporation; JOHN DOE; and JANE DOE,

Defendants.

Case No. 22CV31377

SUMMONS

TO: Home Depot U.S.A., Inc.
c/o Corporation Service Company
1127 Broadway Street NE, Suite 310
Salem OR 97301

You are hereby required to appear and defend the complaint filed against you in the above entitled action within thirty (30) days from the date of service of this summons upon you, and in case of your failure to do so, for want thereof, plaintiff(s) will apply to the court for the relief demanded in the complaint.

**NOTICE TO THE DEFENDANT: READ THESE PAPERS
CAREFULLY!**

You must "appear" in this case or the other side will win automatically. To "appear" you must file with the court a legal paper called a "motion" or "answer." The "motion" or "answer" must be given to the court clerk or administrator within 30 days along with the required filing fee. It must be in proper form and have proof of service on the plaintiff's attorney or, if the plaintiff does not have an attorney, proof of service upon the plaintiff.

If you have any questions, you should see an attorney immediately. If you need help in finding an attorney, you may call the Oregon State Bar's Lawyer Referral Service at (503) 684-3763 or toll-free in Oregon at (800) 452-7636.

SIGNATURE OF ATTORNEY/AUTHOR FOR PLAINTIFF

Jason Kafoury, OSB No. 091200

ATTORNEY'S/AUTHOR'S NAME (TYPED OR PRINTED) BAR NO. (IF ANY)

Kafoury & McDougal, 411 SW Second Ave, Ste 200

Portland OR 97204

(503) 224-2647

CITY

STATE

ZIP

PHONE

Jason Kafoury, OSB No. 091200

TRIAL ATTORNEY IF OTHER THAN ABOVE (TYPED OR PRINTED)

BAR NO.

STATE OF OREGON)
) ss.
County of Multnomah)

I, the undersigned attorney of record for the plaintiff, certify that the foregoing is an exact and complete copy of the original summons in the above entitled action.

Jason Kafoury, OSB No. 091200, Attorney of Record for
Plaintiff

TO THE OFFICER OR OTHER PERSON SERVING THIS SUMMONS: You are hereby directed to serve a true copy of this summons, together with a true copy of the complaint mentioned therein, upon the individual(s) or other legal entity(ies) to whom or which this summons is directed, and to make your proof of service on the reverse hereof or upon a separate similar document which you shall attach hereto.

Jason Kafoury, OSB No. 091200, Attorney of Record for
Plaintiff

EXHIBIT – C

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

RONALD HAYES; JERAMIAH ARNOLD-
FOWLKES; and PRINCE-AMAHYZA
HUDSON,

Plaintiffs,

v.

HOME DEPOT U.S.A., INC., a Delaware
corporation; JOHN DOE; and JANE
DOE,

Defendants.

Case No. 22CV31377

PLAINTIFF'S FIRST REQUEST
FOR PRODUCTION

TO: Defendant Home Depot U.S.A., Inc.

Pursuant to ORCP 43, plaintiff requests defendant to produce and permit plaintiff to inspect and copy each of the following documents within forty-five (45) days of the date of service, at the office of plaintiff's counsel, Kafoury & McDougal, 411 SW 2nd Ave, Ste 200, Portland, Oregon, 97204, or at such other place upon which the parties shall mutually agree.

DEFINITIONS AND GENERAL INSTRUCTIONS

A. The term "document" has the meaning set forth in ORCP 43 and is used in the broadest sense possible to include anything that can be read, listened to, printed, viewed, transcribed, scanned, translated, or interpreted, and includes the original, or a copy when the original is not available, and each

1 non-identical copy, including copies that are non-identical by reason of
2 notations or markings, and any attachments and enclosures, which shall not
3 be separated from the document to which they are attached or enclosed.

4 B. "Relating to" or "related to" means concerning, referring to,
5 alluding to, responding to, in connection with, commenting on, in response to,
6 about, regarding, announcing, explaining, discussing, showing, describing,
7 studying, reflecting, analyzing or constituting.

8 C. Each document of the kind requested herein shall be produced in
9 a manner which preserves its sequential relationship with other documents
10 being produced and shall include the file folder and folder tabs associated with
11 its file location and, if not apparent on the folder or tabs, shall be accompanied
12 by identification of the person or department from whose files it was taken and
13 such additional source information as is necessary to enable the parties to
14 determine the document's original (preproduction) location.

15 D. If defendant contends that any document is privileged in whole or
16 in part, or otherwise objects to any part of any request, or believes that any
17 identified document would be excludable from production to plaintiff in
18 discovery regardless of its relevance, defendant shall identify with particularity
19 each document for which it claims a privilege (including title, subject matter,
20 author, recipient, and date) and state the reasons for each objection or grounds
21 for exclusion.

22 E. These requests are to be treated as continuing in nature, and
23 supplementation of responses is requested for any new documents found,

1 developed, or coming into defendant's actual or constructive possession,
2 custody, or control from the date of the request until the date of trial in this
3 case.

4 **DOCUMENT REQUESTS**

5 **REQUEST NO. 1:** Video from all cameras located inside and outside the
6 Happy Valley Home Depot store (9300 SE 82nd Avenue) (hereinafter referred to
7 as "the Home Depot") between 8:45 pm and 10:45 pm on June 22, 2022 that
8 depict Ronald Hayes, Jeramiah Arnold-Fowlkes, and/or Prince-Amahzya
9 Hudson, as memorialized in the letter to preserve evidence attached as Exhibit
10 A.

11 **REQUEST NO. 2:** All incident reports involving plaintiffs for the day of
12 June 22, 2022.

13 **REQUEST NO. 3:** All documents containing the names of all employees
14 who worked at the Home Depot between 8:45 pm and 10:45 pm on June 22,
15 2022. A list of such persons will be considered compliance with this request.

16 **REQUEST NO. 4:** All documents containing the names of any witnesses
17 who saw or was in a position to see the presence of Ronald Hayes, Jeramiah
18 Arnold-Fowlkes, and/or Prince-Amahzya Hudson in the Home Depot on
19 June 22, 2022. A list of such persons will be considered compliance with this
20 request.

21 **REQUEST NO. 5:** All documents containing the names of the John Doe
22 and Jane Doe described in plaintiff's Complaint. A list of such persons will be
23 considered compliance with this request.

1 **REQUEST NO. 6:** All documents evidencing the presence of any
2 customers in the Home Depot between 8:45 pm and 10:45 pm on June 22,
3 2022. A list of names such persons will be considered compliance with this
4 request.

5 **REQUEST NO. 7:** Witness statements from any witnesses to the incident
6 on June 22, 2022, whether recorded by audio, video, or made in writing.

7 **REQUEST NO. 8:** Any statement given by Ronald Hayes (within the
8 meaning of ORCP 36(B)(3)(b)), whether recorded by audio, video, or made in
9 writing.

10 **REQUEST NO. 9:** Any statement given by Jeramiah Arnold-Fowlkes
11 (within the meaning of ORCP 36(B)(3)(b)), whether recorded by audio, video, or
12 made in writing.

13 **REQUEST NO. 10:** Any statement given by Prince-Amahyza Hudson
14 (within the meaning of ORCP 36(B)(3)(b)), whether recorded by audio, video, or
15 made in writing.

16 **REQUEST NO. 11:** Any and all correspondence between any of the
17 plaintiffs and Home Depot, including letters, emails, and text messages.

18 **REQUEST NO. 12:** All documents and videos provided to or shown to
19 any Home Depot employees who interacted with plaintiffs on the date of the
20 incident, that deal with, touch upon or concern policies and procedures
21 regarding watching and/or following Home Depot customers. This request
22 includes all documents given to and/or training videos watched by any
23

1 employees involved in plaintiffs' incident and all documents given to and/or
2 training videos shown to defendants John Doe and Jane Doe.

3 **REQUEST NO. 13:** All documents and videos provided to or shown to
4 any Home Depot employees interacted with plaintiffs on the date of the
5 incident, that deal with, touch upon or concern policies and procedures
6 regarding detaining Home Depot customers. This request includes documents
7 given to and/or all training videos watched by any employees involved in
8 plaintiff's incident and all documents given to and/or training videos shown to
9 defendants John Doe and Jane Doe.

10 **REQUEST NO. 14:** All loss prevention policies in effect on the day of
11 plaintiffs' incident.

12 **REQUEST NO. 15:** All loss prevention policies that went into effect after
13 plaintiffs' incident.

14 **REQUEST NO. 16:** The entire personnel file for John Doe, including but
15 not limited to application records, employment history, criminal background,
16 disciplinary records, complaints, education and training history, and
17 performance reviews.

18 **REQUEST NO. 17:** The entire personnel file for Jane Doe, including but
19 not limited to application records, employment history, criminal background,
20 disciplinary records, complaints, education and training history, and
21 performance reviews.

22 ////

23 ////

REQUEST NO. 18: Any documents relating to any counseling or disciplinary action taken against defendant John Doe, Jane Doe, or anyone else regarding the June 22, 2022 incident at issue in this case.

Dated this 15th day of September, 2022.

KAFOURY & MCDOUGAL

/s/ Gregory Kafoury

Gregory Kafoury, OSB No. 741663
kafoury@kafourymcdougal.com

Of Attorneys for Plaintiff